CareFirst and the Law

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THIS WEEK'S report of D.C. insurance commissioner Lawrence H. Mirel on the obligations of the District-based affiliate of CareFirst BlueCross BlueShield did not produce the results sought by the DC Appleseed Center for Law and Justice. The Appleseed Center had charged that CareFirst, as a nonprofit charitable health insurance plan with 1.24 million subscribers in the District, Montgomery and Prince George's counties, and Northern Virginia, failed to live up to its charitable giving obligations under its federal charter. Billion-dollar CareFirst, the Appleseed Center contended, should be contributing between $40 million and $61 million to D.C. community activities rather than the $1.5 million it reportedly spends. Mr. Mirel, however, came down on the other side, concluding that the company has been meeting its basic legal obligations and primary charitable mission by providing health insurance on a nonprofit basis to its policyholders. Case closed, it would seem. But no.

Had he stopped there, Mr. Mirel would have fulfilled his role as the city's insurance commissioner. His department, after all, has two stated missions: to regulate insurance, securities businesses, and banking and financial institutions for the protection of D.C. residents; and to create conditions that retain and attract national and international financial services to the city. Instead, the insurance commissioner assumed the role of the city's Health Department director and CareFirst's board of trustees by declaring in his report that the company "could and should do more to support public health" in the Washington area. Mr. Mirel halted his advance short of the line and refrained from spelling out just how much CareFirst should spend to satisfy his demand for "more." Neither did he explain why he believes the city's insurance commissioner should venture into an area where, according to his report, "determining the amount and beneficiaries of contributions to the community is the responsibility of [CareFirst's] board of trustees."

After Appleseed's legal and economic report on CareFirst was released last December, we suggested that if the report was on target, the company's board of directors had little choice but to demand a substantially higher rate of charitable activity. We note that the board has now expanded its community health effort this year through a $92 million "CareFirst Commitment" program. Most of the funds will be used to slow the rate of premium increases, but $8.7 million will be directed toward improving physician quality, patient safety and health in minority communities, according to Post writer Susan Levine. Those steps by CareFirst's board apparently will not satisfy the Appleseed Center. But, if Mr. Mirel's report is correct, CareFirst is satisfying the law. CareFirst's role as a corporate citizen is a matter for its board and the public it serves to decide.